SENATE BILL No. 503

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DIGEST OF SB 503 (Updated February 24, 2005 10:20 am - DI 75)

Citations Affected: IC 4-1; IC 36-2; noncode.

Synopsis: Release of Social Security numbers. Prohibits a state agency from releasing the Social Security number of an individual unless the release is: (1) required by state law, federal law, or court order; (2) authorized in writing by the individual; (3) made to comply with the USA Patriot Act or Presidential Executive Order 13224; or (4) made to a commercial entity for permissible uses set forth in the Drivers Privacy Protection Act, the Fair Credit Reporting Act, or the Financial Modernization Act of 1999. Provides that disclosure of the last four digits of a Social Security number is not considered a disclosure of the Social Security number. Requires a state agency to notify an individual of a security breach of the agency's computer system if the individual's unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. Makes it a Class D felony to knowingly make a false representation to obtain a Social Security number or for an agency employee to knowingly disclose a Social Security number. Provides that an agency employee who negligently discloses a Social Security number commits a Class A infraction. Requires an individual who prepares a document for recording to certify that the individual reviewed the entire document and took reasonable care to redact Social Security numbers in the document. After December 31, 2007, requires a county recorder or an employee of a county recorder to search documents using the redacting technology to redact Social Security numbers before the documents are release for public inspection. Establishes a pilot project beginning July 1, 2005, to develop procedures and test technology and equipment for searching recorded documents and redacting Social Security numbers.

Effective: Upon passage; July 1, 2005.

Hershman

January 18, 2005, read first time and referred to Committee on Homeland Security, Utilities, and Public Policy.
February 24, 2005, amended, reported favorably — Do Pass.

SB 503—LS 7879/DI 87+

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.
  Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.
  Conflict reconciliation: Text in a statute in *this style type* or *~~this style type~~* reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 503

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and local government.

Be it enacted by the General Assembly of the State of Indiana:

1 　　　SECTION 1. IC 4-1-10 IS ADDED TO THE INDIANA CODE AS
2 　A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 　1, 2005]:
4 　　　**Chapter 10. Release of Social Security Number**
5 　　　**Sec. 1. This chapter applies after June 30, 2006.**
6 　　　**Sec. 2. As used in this chapter, "state agency" means an**
7 　**authority, a board, a branch, a commission, a committee, a**
8 　**department, a division, or another instrumentality of the executive,**
9 　**including the administrative, department of state government.**
10 　**Except as provided in subdivision (4), the term does not include the**
11 　**judicial or legislative department of state government. The term**
12 　**includes the following:**
13 　　　**(1) A state elected official's office.**
14 　　　**(2) A state educational institution (as defined in**
15 　　　**IC 20-12-0.5-1).**
16 　　　**(3) A body corporate and politic of the state created by state**
17 　　　**statute.**

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1   **(4) The Indiana lobby registration commission established by**
2   **IC 2-7-1.6-1.**
3   **Sec. 3. (a) For purposes of this section, disclosure of the last four**
4   **(4) digits of an individual's Social Security number is not a**
5   **disclosure of the individual's Social Security number.**
6   **(b) Except as provided in section 4 or 5 of this chapter, a state**
7   **agency may not disclose an individual's Social Security number.**
8   **Sec. 4. Unless prohibited by state law, federal law, or court**
9   **order, the following apply:**
10   **(1) A state agency may disclose the Social Security number of**
11   **an individual to a state, local, or federal agency.**
12   **(2) A state law enforcement agency may, for purposes of**
13   **furthering an investigation, disclose the Social Security**
14   **number of an individual to any individual, state, local, or**
15   **federal agency, or other legal entity.**
16   **Sec. 5. A state agency may disclose the Social Security number**
17   **of an individual if:**
18   **(1) the disclosure of the Social Security number is expressly**
19   **required by state law, federal law, or a court order;**
20   **(2) the individual expressly consents in writing to the**
21   **disclosure of the individual's Social Security number; or**
22   **(3) the disclosure of the Social Security number is:**
23   **(A) made to comply with:**
24   **(i) the USA Patriot Act of 2001 (P.L. 107-56); or**
25   **(ii) Presidential Executive Order 13224; or**
26   **(B) to a commercial entity for the permissible uses set forth**
27   **in the:**
28   **(i) Drivers Privacy Protection Act (18 U.S.C. 2721 et**
29   **seq.);**
30   **(ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or**
31   **(iii) Financial Modernization Act of 1999 (15 U.S.C. 6801**
32   **et seq.).**
33   **Sec. 6. A state agency complies with section 3 of this chapter if**
34   **the agency:**
35   **(1) removes; or**
36   **(2) completely and permanently obscures;**
37   **a Social Security number on a public record before disclosing the**
38   **public record.**
39   **Sec. 7. If a state agency releases a Social Security number in**
40   **violation of this chapter, the agency shall provide notice to the**
41   **person whose Social Security number was disclosed in the manner**
42   **set forth in IC 4-1-11.**

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1	**Sec. 8. An employee of a state agency who knowingly,**
2	**intentionally, or recklessly discloses a Social Security number in**
3	**violation of this chapter commits a Class D felony.**
4	**Sec. 9. A person who knowingly, intentionally, or recklessly**
5	**makes a false representation to a state agency to obtain a Social**
6	**Security number from the state agency commits a Class D felony.**
7	**Sec. 10. An employee of a state agency who negligently discloses**
8	**a Social Security number in violation of this chapter commits a**
9	**Class A infraction.**
10	**Sec. 11. (a) The attorney general may investigate any allegation**
11	**that a Social Security number was disclosed in violation of this**
12	**chapter.**
13	**(b) If the attorney general determines that there is evidence that**
14	**a state employee committed a criminal act under section 8 or 9 of**
15	**this chapter, the attorney general shall report the attorney**
16	**general's findings to:**
17	**(1) the prosecuting attorney in the county where the criminal**
18	**act occurred; and**
19	**(2) the state police department.**
20	**Sec. 12. If the attorney general determines that there is evidence**
21	**that a state employee committed an infraction under section 10 of**
22	**this chapter, the attorney general:**
23	**(1) shall report the attorney general's findings to the**
24	**appointing authority (as defined in IC 4-2-6-1) of the agency**
25	**that employees the employee; and**
26	**(2) may report the attorney general's findings to the local**
27	**prosecuting attorney in the county where the infraction**
28	**occurred.**
29	**Sec. 13. The attorney general may adopt rules under IC 4-22-2**
30	**that the attorney general considers necessary to carry out this**
31	**chapter.**
32	SECTION 2. IC 4-1-11 IS ADDED TO THE INDIANA CODE AS
33	A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
34	1, 2005]:
35	**Chapter 11. Notice of Security Breach**
36	**Sec. 1. This chapter applies after June 30, 2006.**
37	**Sec. 2. (a) As used in this chapter, "breach of the security of the**
38	**system" means unauthorized acquisition of computerized data that**
39	**compromises the security, confidentiality, or integrity of personal**
40	**information maintained by a state or local agency.**
41	**(b) The term does not include the following:**
42	**(1) Good faith acquisition of personal information by an**

1   **agency or employee of the agency for purposes of the agency,**
2   **if the personal information is not used or subject to further**
3   **unauthorized disclosure.**
4   **(2) Unauthorized acquisition of a portable electronic device on**
5   **which personal information is stored if access to the device is**
6   **protected by a password that has not been disclosed.**
7   **Sec. 3. (a) As used in this chapter, "personal information"**
8   **means:**
9   **(1) an individual's:**
10   **(A) first name and last name; or**
11   **(B) first initial and last name; and**
12   **(2) at least one (1) of the following data elements:**
13   **(A) Social Security number.**
14   **(B) Driver's license number or identification card number.**
15   **(C) Account number, credit card number, debit card**
16   **number, security code, access code, or password of an**
17   **individual's financial account.**
18   **(b) The term does not include the following:**
19   **(1) The last four (4) digits of an individual's Social Security**
20   **number.**
21   **(2) Publicly available information that is lawfully made**
22   **available to the public from records of a federal agency or**
23   **local agency.**
24   **Sec. 4. As used in this section "state agency" has the meaning set**
25   **forth in IC 4-1-10-2.**
26   **Sec. 5. (a) Any state agency that owns or licenses computerized**
27   **data that includes personal information shall disclose a breach of**
28   **the security of the system following discovery or notification of the**
29   **breach to any state resident whose unencrypted personal**
30   **information was or is reasonably believed to have been acquired by**
31   **an unauthorized person.**
32   **(b) The disclosure of a breach of the security of the system shall**
33   **be made:**
34   **(1) without unreasonable delay; and**
35   **(2) consistent with:**
36   **(A) the legitimate needs of law enforcement, as described**
37   **in section 7 of this chapter; and**
38   **(B) any measures necessary to:**
39   **(i) determine the scope of the breach; and**
40   **(ii) restore the reasonable integrity of the data system.**
41   **Sec. 6. (a) This section applies to a state agency that maintains**
42   **computerized data that includes personal information that the**

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state agency does not own.

(b) If personal information was or is reasonably believed to have been acquired by an unauthorized person, the state agency shall notify the owner or licensee of the information of a breach of the security of the system immediately following discovery. The agency shall provide the notice to state residents as required under section 5 of this chapter.

Sec. 7. The notification required by this chapter:

(1) may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation; and

(2) shall be made after the law enforcement agency determines that it will not compromise the investigation.

Sec. 8. Except as provided in section 9 of this chapter, a state agency may provide the notice required under this chapter:

(1) in writing; or

(2) by electronic mail, if the individual has provided the state agency with the individual's electronic mail address.

Sec. 9. (a) This section applies if a state agency demonstrates that:

(1) the cost of providing the notice required under this chapter is at least two hundred fifty thousand dollars ($250,000);

(2) the number of persons to be notified is at least five hundred thousand (500,000); or

(3) the agency does not have sufficient contact information; the state agency may use an alternate form of notice set forth in subsection (b).

(b) A state agency may provide the following alternate forms of notice if authorized by subsection (a):

(1) Conspicuous posting of the notice on the state agency's web site if the state agency maintains a web site.

(2) Notification to major statewide media.

SECTION 3. IC 36-2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7.5. Recording Documents Containing Social Security Numbers

Sec. 1. This chapter applies after December 31, 2005.

Sec. 2. As used in this chapter, "identification security protection fund" refers to a fund established under section 11 of this chapter.

Sec. 3. For purposes of this chapter, disclosure of the last four

1   **(4) digits of an individual's Social Security number is not a**
2   **disclosure of the individual's Social Security number.**
3   **Sec. 4. A document may not be submitted to the county recorder**
4   **for recording if the document contains the Social Security number**
5   **of an individual, unless required by law.**
6   **Sec. 5. (a) An individual preparing a document for recording**
7   **shall affirm, under the penalties for perjury, that the individual**
8   **has:**
9   **(1) reviewed the entire document before submitting the**
10   **document for recording for the purpose of identifying and, to**
11   **the extent permitted by law, redacting all Social Security**
12   **numbers; and**
13   **(2) taken reasonable care to redact each Social Security**
14   **number in the document.**
15   **(b) An individual shall make the affirmation required under**
16   **subsection (a) on a form prescribed by the state board of accounts.**
17   **Sec. 6. A county recorder may not accept a document for**
18   **recording without the completed and executed form described in**
19   **section 5 of this chapter.**
20   **Sec. 7. The state board of accounts shall establish reasonable**
21   **procedures for a county recorder to follow:**
22   **(1) when receiving and reviewing a document submitted for**
23   **recording; and**
24   **(2) in order to comply with this chapter.**
25   **Sec. 8. (a) This section applies after December 31, 2007.**
26   **(b) To the extent possible, a county recorder may not disclose a**
27   **recorded document for public inspection under IC 5-14-3 until the**
28   **county recorder has:**
29   **(1) searched the document for a Social Security number; and**
30   **(2) to the extent possible, redacted any Social Security**
31   **numbers contained in the document;**
32   **using the technology described in section 11(b) of this chapter.**
33   **Sec. 9. A county recorder shall post a notice in the county**
34   **recorder's office that states the:**
35   **(1) duties of:**
36   **(A) an individual preparing a document for recording; and**
37   **(B) the county recorder;**
38   **under this chapter; and**
39   **(2) penalties under section 12 of this chapter.**
40   **Sec. 10. A county recorder shall conduct training sessions at**
41   **least two (2) times each year for the county recorder's employees**
42   **on the:**

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1   **(1) requirements of this chapter; and**
2   **(2) procedures to follow in order to comply with this chapter.**
3   **Sec. 11. (a) There is established in each county an identification**
4   **security protection fund. Money in the fund does not revert to the**
5   **general fund at the end of any fiscal year.**
6   **(b) Money in the fund may be used by the county recorder only**
7   **for the purpose of purchasing, upgrading, implementing, and**
8   **maintaining technology in the county recorder's office that has the**
9   **ability to:**
10   **(1) search recorded documents; and**
11   **(2) redact Social Security numbers from recorded documents.**
12   **(c) Use of money in the fund is subject to appropriation by the**
13   **county fiscal body.**
14   **Sec. 12. (a) This section applies after June 30, 2008.**
15   **(b) A county recorder or an employee of a county recorder who**
16   **discloses a recorded document that contains a Social Security**
17   **number without having the document searched, to the extent**
18   **technologically possible, using the redacting technology described**
19   **in section 11(b) of this chapter commits a Class A infraction.**
20   **Sec. 13. Notwithstanding IC 34-28-5-5(c), all civil judgments**
21   **collected by the court clerk for an infraction under section 11 or 12**
22   **of this chapter shall be transferred to the county treasurer for**
23   **deposit in the fund.**
24   SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) The governor**
25   **shall select at least three (3) and not more than six (6) counties for**
26   **a pilot project beginning July 1, 2005. The governor shall appoint**
27   **the county recorder to represent each pilot county selected.**
28   **(b) The county recorders appointed to the pilot project shall**
29   **develop procedures and test technology and equipment to fulfill the**
30   **purposes of IC 36-2-7.5, as added by this act. The state board of**
31   **accounts shall work with the county recorders appointed under**
32   **this SECTION in the development of the procedures and testing of**
33   **technology.**
34   **(c) This SECTION expires July 1, 2008.**
35   SECTION 5. **An emergency is declared for this act.**

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Senate Bill No. 503, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 3, after "Sec. 3." insert "**(a) For purposes of this section, disclosure of the last four (4) digits of an individual's Social Security number is not a disclosure of the individual's Social Security number.**

(b)".

Page 2, delete lines 6 through 8, begin a new paragraph and insert:

"**Sec. 4. Unless prohibited by state law, federal law, or court order, the following apply:**

(1) A state agency may disclose the Social Security number of an individual to a state, local, or federal agency.

(2) A state law enforcement agency may, for purposes of furthering an investigation, disclose the Social Security number of an individual to any individual, state, local, or federal agency, or other legal entity.".

Page 3, delete lines 3 through 6.

Page 3, line 7, delete "12." and insert "**11.**".

Page 3, line 17, delete "13." and insert "**12.**".

Page 3, line 26, delete "14." and insert "**13.**".

Page 3, line 34, after "Sec. 2." insert "**(a)**".

Page 3, line 37, before "The" begin a new paragraph and insert: "**(b)**".

Page 3, line 38, after "include" insert "**the following:**

(1)".

Page 3, line 38, delete "good" and insert "**Good**".

Page 3, between lines 41 and 42, begin a new line block indented and insert:

"**(2) Unauthorized acquisition of a portable electronic device on which personal information is stored if access to the device is protected by a password that has not been disclosed.**".

Page 3, line 42, after "Sec. 3." insert "**(a)**".

Page 4, line 10, before "The" begin a new paragraph and insert: "**(b)**".

Page 4, line 10, after "include" insert "**the following:**

(1) The last four (4) digits of an individual's Social Security number.

(2)".

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Page 4, line 10, delete "publicly" and insert "**Publicly**".

Page 5, line 27, delete "2007." and insert "**2005.**".

Page 5, line 29, delete "10" and insert "**11**".

Page 5, between lines 30 and 31, begin a new paragraph and insert:

"**Sec. 3. For purposes of this chapter, disclosure of the last four (4) digits of an individual's Social Security number is not a disclosure of the individual's Social Security number.**".

Page 5, line 31, delete "3." and insert "**4.**".

Page 5, line 33, delete "." and insert "**, unless required by law.**".

Page 5, line 34, delete "4." and insert "**5.**".

Page 5, line 34, delete "submitting" and insert "**preparing**".

Page 5, line 38, after "and" insert "**, to the extent permitted by law,**".

Page 5, line 42, after "affirmation" insert "**required**".

Page 6, line 2, delete "5." and insert "**6.**".

Page 6, line 4, delete "4" and insert "**5**".

Page 6, line 5, delete "6." and insert "**7.**".

Page 6, line 10, delete "7." insert "**8. (a) This section applies after December 31, 2007.**

(b)".

Page 6, line 16, delete "10(b)" and insert "**11(b)**".

Page 6, line 17, delete "8." and insert "**9.**".

Page 6, line 20, delete "submitting" and insert "**preparing**".

Page 6, line 25, delete "9." and insert "**10.**".

Page 6, line 29, delete "10." and insert "**11.**".

Page 6, line 32, delete "only".

Page 6, line 32, after "recorder" insert "**only**".

Page 6, delete lines 38 through 42, begin a new paragraph and insert:

"**(c) Use of money in the fund is subject to appropriation by the county fiscal body.**".

Page 7, line 1, delete "A person who submits a document for recording" and insert "**This section applies after June 30, 2008.**".

Page 7, delete lines 2 through 3.

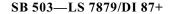Page 7, line 7, delete "set forth" and insert "**described**".

Page 7, line 8, delete "10(b)" and insert "**11(b)**".

Page 7, line 9, before "Notwithstanding" delete "(c)" and insert "**Sec. 13.**".

Page 7, line 10, delete "this".

Page 7, line 10, after "section" insert "**11 or 12 of this chapter**".

Page 7, delete lines 23 through 29.

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Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 503 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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